THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.17078 OF 1996

DATED: 13-03-2007

Between:

G. Anantha Padmanabha Raju

.. Petitioner

and

Senior Divisional Personal Officer, South Central Railway, Guntakal and others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.17078 OF 1996

ORDER:

This writ petition is directed against the order dated 03.06.1996 in P.W. Appeal No.1 of 1991 on the file of the Appellate Authority under Payment of Wages Act-cum-III Additional District Judge, Chittoor at Tirupathi, under which the order dated 02.07.1990 passed by the Authority under Payment of Wages Act-cum-Assistant Commissioner of Labour, Tirupathi was reversed.

It appears, the petitioner, who was an employee of South Central Railways, filed an application before the Authority under Payment of Wages Act-cum-Assistant Commissioner of Labour, Tirupathi (for short 'the primary authority') claiming overtime allowances from 17.05.1981 to 30.09.1981 and from 02.10.1981 to 01.01.1982, when the authorities of South Central Railway rejected his claim on 21.08.1984. The Authority, vide its order dated 02.07.1990, directed the South Central Railway to pay an amount of Rs.11,132-40 ps to the petitioner. Aggrieved thereby, the Senior Divisional Personal Officer, South Central Railways, Guntakal, carried the matter in appeal before the Appellate Authority under Payment of Wages Act-cum-III Additional District Judge, Chittoor (for short 'the appellate authority') and the learned Judge, after perusal of the order passed by the primary authority and the evidence on record, came to the conclusion that the claim made by the petitioner was barred by limitation, since the same was filed under Minimum Wages Act, and allowed the appeal by setting aside the order of the primary authority. Aggrieved by the same, the petitioner filed this writ petition.

Before going into the merits of the case, it is necessary to notice that

during the pendency of the writ petition, the petitioner retired from service on attaining the age of superannuation.

There is no necessity of going into all the details.

The claim petition, allowed by the primary authority, was rejected by the appellate authority only on the ground that the claim made by the petitioner suffers from irretrievable laches and it was not filed within the limitation period as required under the law.

The learned counsel for the petitioner strenuously contended that the appellate authority has misconstrued the facts of the case to that of a claim filed under Minimum Wages Act, but whereas the claim of the petitioner is for payment of overtime allowances.

The learned counsel for the respondent, Mr R.S. Murthy, in his inimitable style strenuously opposed the contentions raised by the learned counsel for the petitioner and stated that the appellate authority has not committed any error calling for interference of this Court under Article 226 of the Constitution of India.

The fact that the claim was for overtime allowances is not in dispute. Therefore, as a natural corollary, it must be deemed that the claim filed by the petitioner does not fall into the ambit of Minimum Wages Act and, hence, applying the yardstick under the Minimum Wages Act for the purpose of limitation is not proper. Therefore, the appellate authority erred in construing the facts properly as well as in applying relevant law. The primary authority has taken all the facts into consideration, which were not denied by the respondent-management, so far as the eligibility of the petitioner to the overtime allowance is concerned.

Further, it is brought to the notice of the Court that the petitioner was paid the entire amount on 02.07.1991 through a cheque and the same was encashed by the petitioner.

Under these circumstances, I am of the opinion that the order passed by the appellate authority, reversing the findings recorded by the primary authority and rejecting the claim of the petitioner, is erroneous and liable to be set aside and accordingly set aside confirming the order passed by the primary authority.

The writ petition is accordingly allowed. No costs.

C.V. RAMULU, J

13th March, 2007.
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